

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

Document #

75

U. S. A.

U.S.C.A. # 07 - 3109 - cr

-v-

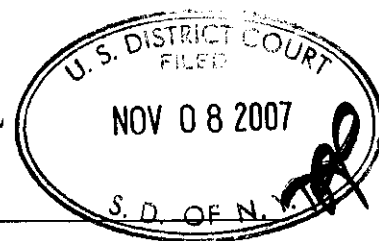
U.S.D.C. # 05 - cr - 0708 - 5

DAVID DONADO

JUDGE: Alvin K. Hellerstein

DATE: November 8, 2007

INDEX TO THE RECORD ON APPEAL



PREPARED BY (NAME): Nezam Dulal o/b/o Beth M. Farber

FIRM: McCarter & English, LLP

ADDRESS: New York, New York 10167

PHONE NO.: (212) 609-6800

DISTRICT COURT DOCKET ENTRIES

DOCUMENT DESCRIPTION

DOC. #

CLERK'S CERTIFICATE

SEE ATTACHED LIST OF NUMBERED DOCUMENTS

** ALL OTHERS MISSING AT THIS TIME **

TRANSCRIPT

29

NOTICE OF APPEAL (Duplicate Original)

58

TRANSCRIPT

59

CJA 20 as to David Donado

62

(XXX) Original Record

() Supplemental Record

The record in the above entitled case was indexed to the U.S.C.A.
for the Second Circuit on the 8TH Day of November, 2007.

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

U. S. A.

-v-

DAVID DONADO

U.S.C.A. # 07 - 3109 - cr

U.S.D.C. # 05 - cr - 0708 - 5

JUDGE: Alvin K. Hellerstein

DATE: November 8, 2007

Clerk's Certificate

I, J. Michael McMahon, Clerk of the Court of the United States District Court for the Southern District of New York, do hereby certify that the certified copy of the docket entries and the original filed papers numbered 1 Through 61, inclusive, constitutes the Original record on appeal in the above entitled proceedings except for the following missing documents:

Date Filed

Document Description

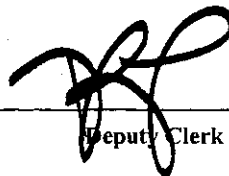
**** BALANCE OF FILE MISSING AT THIS TIME ****

<u>Mar. 06, 2006</u>	<u>CJA 20 as to David Donado</u>
<u>Jun. 16, 2006</u>	<u>TRANSCRIPT</u>
<u>Jul. 05, 2007</u>	<u>NOTICE OF APPEAL (Duplicate Original)</u>
<u>Jul. 23, 2007</u>	<u>TRANSCRIPT</u>

In Testimony Whereof, I have caused the seal of said Court to be hereunto affixed, at the City of New York, this 8TH Day of November In this year of our Lord, Two Thousand and Seven, and the Independence of the United States this 232ND year.

J. Michael McMahon, Clerk

By


Deputy Clerk

APPEAL, ECF

U.S. District Court
United States District Court for the Southern District of New York (Foley Square)
CRIMINAL DOCKET FOR CASE #: 1:05-cr-00708-AKH-5
Internal Use Only

Case title: USA v. Ardila-Rojas et al

Date Filed: 07/07/2005

Date Terminated: 07/05/2007

Date Filed	#	Docket Text
07/07/2005	<u>40</u>	SEALED INDICTMENT as to Sealed Defendant 1 (1) count(s) 1, Sealed Defendant 2 (2) count(s) 1, Sealed Defendant 3 (3) count(s) 1, Sealed Defendant 4 (4) count(s) 1, Sealed Defendant 5 (5) count(s) 1, Sealed Defendant 6 (6) count(s) 1, Sealed Defendant 7 (7) count(s) 1, Sealed Defendant 8 (8) count(s) 1, Sealed Defendant 9 (9) count(s) 1. (fk) (Entered: 10/26/2007)
07/28/2005		Case Designated ECF as to Alvaro Ardila-Rojas, David Donado, Denise Donado. (fk) (Entered: 10/26/2007)
07/28/2005	<u>1</u>	(S1) SUPERSEDING INDICTMENT FILED as to Alvaro Ardila-Rojas (2) count(s) 1s, David Donado (5) count(s) 1s, Denise Donado (6) count(s) 1s. (fk) (Entered: 10/26/2007)
11/08/2005	<u>10</u>	(S2) SUPERSEDING INDICTMENT FILED as to Alvaro Ardila-Rojas (2) count(s) 1ss, Nellie Agudelo-Piedrahita (3) count(s) 1s, 2s, 3s, David Donado (5) count(s) 1ss, Denise Donado (6) count(s) 1ss, Jonathan Salazar (8) count(s) 1s. (fk) (Entered: 10/26/2007)
11/22/2005		Minute Entry for proceedings held before Judge Henry B. Pitman : Plea entered by David Donado (5) Count 1 Not Guilty. (fk) (Entered: 10/26/2007)
11/22/2005		Minute Entry for proceedings held before Judge Henry B. Pitman : Initial Appearance as to David Donado held on 11/22/2005. (fk) (Entered: 10/26/2007)
11/22/2005		Minute Entry for proceedings held before Judge Henry B. Pitman : Arraignment as to David Donado (5) Count 1ss held on 11/22/2005. AUSA David Juffe present; Defendant David Donado present; Deft counsel Justin Levin present. Time between 11/22/2005 and 12/2/2005 excluded in the interest of justice without objection. (fk) (Entered: 10/26/2007)
12/02/2005		Minute Entry for proceedings held before Judge Alvin K. Hellerstein: Pretrial Conference as to David Donado, Denise Donado, Nellie Agudelo-Piedrahita, Jonathan Salazar held on 12/2/2005. Deft. Nellie Agudelo-Piedrahita present with atty Gregory Cooper; Deft David Donado present with atty Justin Levine; Deft. Denise Donado present with atty Sabrina Shroff; Deft Jonathan Salazar present with atty Gregory Cooper for Joe Grub; AUSA Anirudh Bansal present. Court reporter Rebecca Forman present; Interpreter Mirta Hess present. Atty Gregory Cooper is relieved and atty Charles S. Hochbaum is appointed. Next PTC is set for 2/3/2006 at 10:45a.m. Time excluded until 2/3/2006 in the interest of justice. All defts continued remanded. (fk) (Entered: 10/26/2007)
01/02/2006		ORAL ORDER as to David Donado, Denise Donado, Nellie Agudelo-Piedrahita, Jonathan Salazar Time excluded from 12/2/2005 until 2/3/2006., As to David Donado, Denise Donado, Nellie Agudelo-Piedrahita, Jonathan Salazar Pretrial Conference set for 2/3/2006 10:45 AM before Judge Alvin K. Hellerstein. (Signed by Judge Alvin K. Hellerstein on 12/2/2005)(jar,) (Entered: 01/17/2006)
01/09/2006		Minute Entry for proceedings held before Judge Frank Maas : Bond Hearing as to David Donado held on 1/9/2006. Defendant David Donado present with Attorney Justin Levine. AUSA Anirudh Bansal present, Spanish interpreter present. 500,000 PRB with 5 financially responsible persons and 100,000 secured. Travel restricted to SDNY/EDNY/SD of Florida. Surrender travel documents & no new applications. Strict pretrial supervision, home incarceration and electronic monitoring. Defendant to be released upon following conditions: All to be met before release. (jar,) (Entered: 01/18/2006)
02/03/2006		Minute Entry for proceedings held before Judge Alvin K. Hellerstein : Pretrial Conference as to David Donado, Denise Donado, Nellie Agudelo-Piedrahita, Jonathan Salazar held on 2/3/2006, as to David Donado, Denise Donado, Nellie Agudelo-Piedrahita, Jonathan Salazar; Pretrial Conference set for 3/10/2006 10:45 AM before Judge Alvin K. Hellerstein. Deft David Donado present with atty Michael Greifinger for Justine Levine; Deft Denise Donado present with atty Sabrina Shroff; Deft present with atty. Nellie Agudelo-Piedrahita present with atty Howard Leader; Deft Jonathan Salazar present with atty Joseph Grob; AUSA, Anirudh Bansal present. Court reporter Michelle Bulkley present. Interpreter Walter Krochmal present. Next PTC is set for 3/10/06 at 10:45am. Time excluded until 3/10/06; in the interests of justice; Deft Denise Donado cont'd on bail; The remaining defts cont'd remanded. (fk) (Entered: 10/26/2007)
03/06/2006	<u>22</u>	NOTICE OF ATTORNEY APPEARANCE: Lee Alan Ginsberg appearing for David Donado. (Ginsberg, Lee) (Entered: 03/06/2006)
03/06/2006	62	CJA 20 as to David Donado: Appointment of Attorney Lee Alan Ginsberg for Denise Donado.. (Signed by Judge Alvin K. Hellerstein on 7/20/07) CJA office mailed original to the attorney and sent a copy to the file. (fk) (Entered: 10/26/2007)
03/16/2006		Minute Entry for proceedings held before Judge Alvin K. Hellerstein : Pretrial Conference as to David Donado, Nellie Agudelo-Piedrahita, Jonathan Salazar held on 3/16/2006, as to David Donado, Nellie Agudelo-Piedrahita, Jonathan Salazar; Pretrial Conference set for 5/3/2006 04:00 PM before Judge Alvin K. Hellerstein. Deft David Donado present with atty Alan Seidler for Lee Ginsberg; Denise Donado not present. Atty not present. Deft Nellie Agudelo-Piedrahita present with atty Howard Leader; Deft Jonathan Salazar present with atty Alan Seidler; Court reporter Carol Ganley present; Interpreter Mario Michelena present. Next conference is set for 5/3/06 at 4:00pm. Time excluded until 5/3/06; in the interest of justice; Deft's Denise Donado cont'd on bail. All other defts cont'd remanded. (fk) (Entered: 10/26/2007)

05/04/2006		Minute Entry for proceedings held before Judge Alvin K. Hellerstein :Pretrial Conference as to Alvaro Ardila-Rojas, David Donado, Denise Donado, Nellie Agudelo-Piedrahita, Jonathan Salazar held on 5/4/2006. Deft Alvaro Ardila-Rojas present with atty Joaquin Perez by Lee Ginsberg; Deft David Donado present with atty Lee Ginsberg; Deft Denise Donado presence is waived by atty Sabrina Shroff; Deft Nellie Agudelo-Piedrahita present with atty Lee Ginsberg for Roberto Cardenas; Deft Jonathan Salazar present with atty Alan Seidler; AUSA Marc Berger present; Court reporter Elena Lynch present; Interpreter David Mintz present. Next PTC set for 6/19/06 at 9:30 am. Time excluded until 6/19/2006 in the interest of justice. Defts continue remanded. (fk) (Entered: 10/26/2007)
05/04/2006		ORAL ORDER as to Alvaro Ardila-Rojas, David Donado, Denise Donado, Nellie Agudelo-Piedrahita, Jonathan Salazar Time excluded from 5/4/2006 until 6/19/2006. As to Alvaro Ardila-Rojas, David Donado, Denise Donado, Nellie Agudelo-Piedrahita, Jonathan Salazar Pretrial Conference set for 6/19/2006 09:30 AM before Judge Alvin K. Hellerstein. (fk) (Entered: 10/26/2007)
06/16/2006	- 29	TRANSCRIPT of Proceedings as to Alvaro Ardila-Rojas, Nellie Agudelo-Piedrahita, David Donado, Jonathan Salazar, Denise Donado held on 5/3/06 before Judge Alvin K. Hellerstein. (fk) (Entered: 10/26/2007)
06/19/2006		Minute Entry for proceedings held before Judge Alvin K. Hellerstein :Pretrial Conference as to Alvaro Ardila-Rojas, David Donado, Nellie Agudelo-Piedrahita, Jonathan Salazar held on 6/19/2006, as to Alvaro Ardila-Rojas, David Donado, Nellie Agudelo-Piedrahita, Jonathan Salazar; Pretrial Conference set for 7/20/2006 09:30 AM before Judge Alvin K. Hellerstein. Deft Alvaro Ardila-Rojas present with atty Sabrina Shroff for Joaquin Perez; Deft Nellie Agudelo-Piedrahita present with atty Sabrina Shroff for Roberto Cardenas; Deft Denise Donado not present (excused) atty Sabrina Shroff present. Deft David Donado present with atty Louis Freeman for Lee Ginsberg; Deft Jonathan Salazar present with atty Alan Seidler; AUSA, Eric Snyder present for AUSA, Anirudh Bansal; Court Linda Fisher present; Intepreter Mirta Hess present. Next PTC is set for 7/20/06 at 9:30am. Time excluded until 7/20/06; in the interest of justice; Defts Ardila-Rojas, Piedrahita, David Donado and J. Salazar are cont'd remanded. Deft Denise Donado cont'd on bail. (fk) (Entered: 10/26/2007)
06/29/2006		***NOTE TO ATTORNEY TO RE-FILE DOCUMENT - NON-ECF DOCUMENT ERROR. Note to Attorney J. Cardenas as to Alvaro Ardila-Rojas, David Donado, Denise Donado, Nellie Agudelo-Piedrahita, Jonathan Salazar: to MANUALLY RE-FILE Document No. 32 LETTER. This document is not filed via ECF.(fk) (Entered: 10/26/2007)
07/20/2006		Minute Entry for proceedings held before Judge Alvin K. Hellerstein :Pretrial Conference as to Alvaro Ardila-Rojas, David Donado, Denise Donado, Nellie Agudelo-Piedrahita, Jonathan Salazar held on 7/20/2006. Deft N. Agudelo present with atty roy Kulscar. Deft David Donado present with atty Lee Ginsberg. Deft Denise Donado Not present. Atty Ginsberg present for Denise Donado. Deft A. Ardila-Rojas present with atty Samuel Viruet. Deft Jonathan Salazar present with atty Alan Seidler. AUSA Anirudh Bansal present. Spanish Interpreter Sonia Berrah present. Court Reporter Mike McDaniel present. Next conference scheduled for Sept 6, 2006 at 10:30am. Time excluded in the interest of justice until Sept 6, 2006. (fk) (Entered: 10/26/2007)
07/20/2006		ORAL ORDER as to Alvaro Ardila-Rojas, David Donado, Denise Donado, Nellie Agudelo-Piedrahita, Jonathan Salazar Time excluded from 7/20/2006 until 9/6/2006. As to Alvaro Ardila-Rojas, David Donado, Denise Donado, Nellie Agudelo-Piedrahita, Jonathan Salazar Pretrial Conference set for 9/6/2006 10:30 AM before Judge Alvin K. Hellerstein. (fk) (Entered: 10/26/2007)
08/30/2006	35	ORDER as to Alvaro Ardila-Rojas, David Donado, Denise Donado, Nellie Agudelo-Piedrahita, Jonathan Salazar.... It is found that the Indictment in the above-captioned action is currently sealed and the USA's Office has applied to have that Indictment unsealed, it is therefore ORDERED that the Indictment in the above-mentioned action be unsealed and remain unsealed pending further order of the Court. (Signed by Judge Frank Maas on 8/30/06)(fk) (Entered: 10/26/2007)
08/30/2006		INDICTMENT UNSEALED as to Jorge Ariel Diaz-Ramirez, Alvaro Ardila-Rojas, Nellie Agudelo-Piedrahita, Arturo Rojas-Jaime, David Donado, Carlos Lopez, Jonathan Salazar, Manuel Garcia, Denise Donado. (fk) (Entered: 10/26/2007)
09/06/2006		Minute Entry for proceedings held before Judge Alvin K. Hellerstein :Pretrial Conference as to Alvaro Ardila-Rojas, David Donado, Nellie Agudelo-Piedrahita, Jonathan Salazar held on 9/6/2006, as to Alvaro Ardila-Rojas, David Donado, Nellie Agudelo-Piedrahita, Jonathan Salazar; Pretrial Conference set for 10/10/2006 09:30 AM before Judge Alvin K. Hellerstein. Deft Ardila-Rojas present with atty Sabrina Shroff for Joaquin Perez; Deft David Donado present with atty Lee Ginsberg; Deft Donado not present (excused); Atty Sabrina Shroff present; Deft Agudelo-Piedrahita present with atty Roy Kulscar pres. Deft Salazar present with atty Lee Ginsberg for Alan Seidler; AUSA Anirudh Bansal present. Spanish interpreter Mario Michelena present. Court reporter Alena Lynch present. Next conferece scheduled for 10/10/06 at 9:30am. Time excluded until 10/10/06; in the interest of justice. Deft Denise Donado cont'd on bail; All other defts cont'd remanded. (jw,) (Entered: 09/07/2006)
10/04/2006	37	ENDORSED LETTER as to David Donado addressed to Judge Hellerstein from Lee Ginsberg dated 10/3/06 re: Reschedule Conference., as to David Donado; Pretrial Conference set for 10/11/2006 04:00 PM before Judge Alvin K. Hellerstein. Judge Memo-endorsed...SO ORDERED. (Signed by Judge Alvin K. Hellerstein on 10/3/06)(jw,) (Entered: 10/04/2006)
11/01/2006		ORDER FOR PRE-SENTENCE INVESTIGATION REPORT as to David Donado (Signed by Judge Alvin K. Hellerstein on 11/1/06)(jw,) (Entered: 11/03/2006)
11/01/2006		Minute Entry for proceedings held before Judge Alvin K. Hellerstein: Change of Plea Hearing as to David Donado held on 11/1/2006. Deft present with atty Lee Ginsberg; AUSA, Anirudh Bansal; Court reporter Sam Mauro present. Interpreter David Mintz present. Deft withdraws previous plea of not guilty and enters a plea of guilty to count 1 of indictment S2 05 cr 708 and Count 2 of S2 03 cr 1188; PSI ordered; Sentencing set for January 24, 2007 at 9:30am; Deft cont'd remanded. (fk) (Entered: 10/26/2007)
11/01/2006		Minute Entry for proceedings held before Judge Alvin K. Hellerstein : As to David Donado Sentencing set for 1/24/2007 at 09:30 AM before Judge Alvin K. Hellerstein. (fk) (Entered: 10/26/2007)
11/01/2006		Change of Not Guilty Plea to Guilty Plea as to David Donado (5) Count 1ss. (fk) (Entered: 10/26/2007)

11/01/2006		Minute Entry for proceedings held before Judge Alvin K. Hellerstein : Plea entered by David Donado (5) Guilty as to Count 1ss. (fk) (Entered: 10/26/2007)
11/03/2006		TRANSCRIPT of Proceedings as to David Donado held on 10/12/06 before Judge Alvin K. Hellerstein. Original Transcript filed under case #: 03cr1188, Document #: 14. (tro,) Modified on 11/3/2006 (tro,). (Entered: 11/03/2006)
01/09/2007		TRANSCRIPT of Proceedings as to David Donado held on 11/1/06 before Judge Alvin K. Hellerstein. Original Transcript filed under Case #: 03cr1188, Document #: 16. (tro,) (Entered: 01/09/2007)
01/09/2007		TRANSCRIPT of Proceedings as to David Donado held on 11/1/06 before Judge Alvin K. Hellerstein. Original Transcript filed under Case #: 03cr1188, Document #: 17. (tro,) (Entered: 01/09/2007)
03/15/2007	45	ENDORSED LETTER as to David Donado addressed to Judge Hellerstein from Attorney Lee Ginsberg dated 3/13/07 re: submitted to request an adjournment of thirty days for the sentencing of Mr. Donado, currently scheduled for 3/22/07. ENDORSEMENT: Sentencing is adjourned to April 27, 2007, at 11:30 a.m. (Signed by Judge Alvin K. Hellerstein on 3/14/07); refer to S2-03-Cr-1188(AKH) also. (bw) (Entered: 03/16/2007)
03/15/2007		Set/Reset Hearings as to David Donado: Sentencing set for 4/27/2007 11:30 AM before Judge Alvin K. Hellerstein. (bw) (Entered: 03/16/2007)
04/27/2007		Minute Entry for proceedings held before Judge Alvin K. Hellerstein :Sentencing held on 4/27/2007 for David Donado (5) Count 1ss. (fk) (Entered: 10/26/2007)
04/27/2007		DISMISSAL OF COUNTS on Government Motion as to David Donado (5) Count 1,1s.. (fk) (Entered: 10/26/2007)
05/29/2007		Case Designated ECF as to Jorge Ariel Diaz-Ramirez, Alvaro Ardila-Rojas, Nellie Agudelo-Piedrahita, Arturo Rojas-Jaime, David Donado, Carlos Lopez, Jonathan Salazar, Manuel Garcia, Denise Donado. (fk) (Entered: 10/26/2007)
07/05/2007	56	JUDGMENT as to David Donado (5), Count(s) 1, 1s, Dismissed; Count(s) 1ss, 87 months imprisonment to run concurrent. 3 years supervised release with supervision. \$200.00 special assessment. Deft is notified of his right to appeal. (Signed by Judge Alvin K. Hellerstein on 7/5/07)(fk) Modified on 10/26/2007 (Keegan, Fiona). (Entered: 10/26/2007)
07/05/2007		Judgment entered in money judgment book as #07,1288 as to David Donado in the amount of \$ 200.00, re: 56 Judgment,. (fk) (Entered: 10/26/2007)
07/05/2007	58	NOTICE OF APPEAL (DUPLICATE ORIGINAL) by David Donado from 1. 56 Judgment. Copies sent to attorney(s) of record: A.U.S.A. (fk) (Entered: 10/26/2007)
07/19/2007		Transmission of Notice of Appeal and Certified Copy of Docket Sheet as to David Donado to US Court of Appeals re: [58] Notice of Appeal - Final Judgment. (fk) (Entered: 10/26/2007)
07/23/2007	59	TRANSCRIPT of Proceedings as to David Donado held on 4/27/07 before Judge Alvin K. Hellerstein. (jbe) (Entered: 07/23/2007)
07/25/2007	61	CJA 23 Financial Affidavit by David Donado. Judge's Endorsement: Approved. (Signed by Judge Alvin K. Hellerstein on 7/23/07); refer to 03-cr-1188 also. (bw) (Entered: 07/26/2007)
08/17/2007		USCA Case Number 07-3109 from the Second Circuit as to David Donado, assigned to [58] Notice of Appeal - Final Judgment filed by David Donado. (fk) (Entered: 10/26/2007)
10/30/2007		USCA SCHEDULING ORDER as to David Donado related to [58] Notice of Appeal - Final Judgment filed by David Donado, USCA Case Number 07-3109-cr. Catherine O'Hagan Wolfe, Clerk USCA. Certified: 10/24/07. Appeal Record due by 11/8/2007. (tp) (Entered: 10/30/2007)